

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1445

Introduced by Assembly Member Plescia

February 23, 2007

An act to amend Section 25503.2 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL’S DIGEST

AB 1445, as amended, Plescia. Alcoholic beverage licenses: off-sale: tied-house restrictions.

Existing provisions of the Alcoholic Beverage Control Act, known as “tied-house” restrictions, generally prohibit manufacturers, winegrowers, bottlers, importers, wholesalers, and others from performing certain activities, with specified exceptions. Existing law allows any winegrower, wine blender, beer manufacturer, brandy manufacturer, distilled spirits manufacturer, distilled spirits manufacturer’s agent, rectifier, distilled spirits wholesaler, and beer and wine wholesaler, or their authorized agents, to perform certain services for off-sale retail licensees at or on the premises of the off-sale retail licensee with the licensee’s permission relating to stacking, rotating, servicing, and taking inventory of stock, *in specified areas of the licensed premises*.

This bill would ~~make technical, nonsubstantive changes to this provision~~ *expand the permitted services relating to the rotating, restocking, and rearranging of alcoholic beverages within the licensed premises of the off-sale retail licensee. This bill would exclude specified actions from the permitted services.*

The Alcoholic Beverage Control Act provides that a violation of any of its provisions for which another penalty or punishment is not specifically provided is a misdemeanor. This bill would expand existing crimes by imposing new duties on a licensee under the act, thus, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25503.2 of the Business and Professions
2 Code is amended to read:
3 25503.2. (a) Notwithstanding any other provision in this
4 division, any winegrower, wine blender, beer manufacturer, brandy
5 manufacturer, distilled spirits manufacturer, distilled spirits
6 manufacturer's agent, rectifier, distilled spirits wholesaler, and
7 beer and wine wholesaler, or the authorized agent or agents or
8 representative or representatives of that licensee, may perform any
9 of the following services for off-sale retail licensees at or on the
10 premises of the off-sale retail licensee with the retail licensee's
11 permission:
12 (1) Stack or arrange cases of the brand or brands of alcoholic
13 beverages owned or sold by the licensee performing the service
14 ~~in the storeroom or warehouse where the off-sale retail licensee~~
15 *in the storeroom within the licensed premises of the off-sale retail*
16 *licensee where it stores the brand or brands.*
17 (2) Rotate the brand or brands owned or sold by the licensee
18 performing the service on shelves and in refrigerated boxes *within*
19 *the licensed premises of the off-sale retail licensee*, and rearrange
20 bottles or packages of the brand or brands by moving the bottles
21 or packages horizontally or vertically from shelf to shelf in the
22 space and shelves allocated to the brand or brands. ~~This paragraph~~
23 ~~does not permit the removal of any brand or brands of alcoholic~~
24 ~~beverages, except beer, which are owned or sold by the licensee~~

1 performing the service, from the storeroom or other place belonging
2 to an off-sale retailer for the purpose of replacing alcoholic
3 beverages on or restocking shelves or refrigerated boxes.

4 (3) Remove the brand or brands of alcoholic beverages that are
5 owned or sold by the licensee performing the service, from the
6 storeroom within the licensed premises of the off-sale retail
7 licensee where it stores the brands or brands for the purpose of
8 replacing alcoholic beverages on or restocking shelves, fixtures,
9 refrigerated boxes, floor or other display pieces, or floor stocks.
10 This paragraph does not permit the removal of any alcoholic
11 beverage from delivery vehicles of such licensee in the course of
12 performing the services authorized by this paragraph.

13 ~~(3)~~

14 (4) Take an inventory of an off-sale retailer's stock of a brand
15 or brands of alcoholic beverages that are owned or sold by the
16 licensee performing the service and that are in the stockroom or
17 other place belonging to within the licensed premises of the off-sale
18 retailer.

19 ~~(4)~~

20 (5) Service the brand or brands of alcoholic beverages owned
21 or sold by the licensee performing the service that are on shelves,
22 fixtures, or other display pieces at the off-sale retail premises within
23 the licensed premises of the off-sale retailer, including, but not
24 limited to dusting bottles and shelves and refrigerated boxes
25 allocated to the brand or brands at the retail premises. The licensees
26 authorized to render services by this section and their agents and
27 representatives may not price-mark individual containers of the
28 brand of alcoholic beverages, except beer, owned or sold by the
29 licensee performing the service, except for individual bottles used
30 on floor displays.

31 ~~(5)~~

32 (6) Rotate or rearrange the brand or brands of wine or distilled
33 spirits owned or sold by the licensee on, in, or among permanent
34 shelves, permanent fixtures, refrigerated boxes, or floor or other
35 displays or display pieces; and stock the brand or brands onto or
36 into shelves, fixtures, refrigerated boxes, floor or other displays
37 or display pieces; and stock the brand or, or floor stocks. brands
38 onto or into permanent shelves, permanent fixtures, or refrigerated
39 boxes for the sole purposes of the introduction of new products,
40 the resetting or rearrangement of existing products, or the setting

1 ~~or arranging of new stores.~~ Incidental touching or rearrangement
2 of the brand or brands of another licensee by a licensee performing
3 any of the services authorized by this paragraph for the sole purpose
4 of accessing ~~permanent~~ shelves, ~~permanent~~ fixtures, and other
5 spaces allocated to the licensee performing the service shall not
6 be deemed to be a violation of any provision of this division
7 provided the other licensee's brands are not removed from spaces
8 allocated to that licensee. ~~Nothing in this paragraph permits~~
9 ~~stocking permanent shelves, permanent fixtures, or refrigerated~~
10 ~~boxes for regular inventory replenishment.~~

11 (b) Notwithstanding any other provision in this division, any
12 beer manufacturer or beer and wine wholesaler, or the authorized
13 agent or agents or representative or representatives of that licensee,
14 may perform any of the services specified in paragraphs (1) to (4),
15 inclusive, of subdivision (a), with respect to beer, for on-sale retail
16 licensees at or on the premises of the on-sale retail licensee with
17 the retail licensee's permission.

18 *SEC. 2. No reimbursement is required by this act pursuant to*
19 *Section 6 of Article XIII B of the California Constitution because*
20 *the only costs that may be incurred by a local agency or school*
21 *district will be incurred because this act creates a new crime or*
22 *infraction, eliminates a crime or infraction, or changes the penalty*
23 *for a crime or infraction, within the meaning of Section 17556 of*
24 *the Government Code, or changes the definition of a crime within*
25 *the meaning of Section 6 of Article XIII B of the California*
26 *Constitution.*